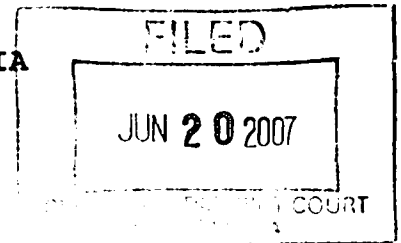


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



JOSE VANEGAS, #188238,

Petitioner,

v.

ACTION NO. 2:06cv503

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition involves a violation of Petitioner's rights stemming from a charge for an institutional infraction for delaying, hindering, or interfering with an employee in performance of her duties. Following a disciplinary hearing, Petitioner was convicted of the charged offense and was fined \$12.00 as a result of that conviction.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report of the Magistrate Judge was filed on April 20, 2007, denying Petitioner's motion for an evidentiary hearing and recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and

recommendations made by the Magistrate Judge. On May 25, 2007, the Court received Petitioner's Objections to the Magistrate Judge's Report and Recommendation. The Court received no response from Respondent.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Magistrate Judge's report, and having made de novo findings with respect to the portions objected to, does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on April 20, 2007, and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED and that judgment be entered in favor of Respondent.

Accordingly, the Court FINDS that the claims set forth in Claims 1 and 2 are without merit and Petitioner has failed to show either that the state court unreasonably determined the facts in his case or that the state court unreasonably applied federal law in dismissing his claims.

Petitioner may appeal from the judgment entered pursuant to this final order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules

of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

June 20, 2007